REMARKS

The Examiner thanked for the performance of a thorough search.

Claims 1, 5, 9, 13,14, 24, 41, 46, 58, and 63 have been amended. No claims have been cancelled or added. Hence, Claims 1-65 are pending in the application.

Each issue raised in the Office Action mailed April 1, 2005 is addressed hereinafter.

I. DOUBLE-PATENTING REJECTIONS BASED ON *In re Schneller*

Claims 1, 5, 9, 13, 14, 24, 41, and 58 have been rejected under the judicially created doctrine of double patenting over claim 1 of U.S. Patent No. 6,822,940 (the '940 patent herein after). The Office Action has based the double patenting rejection of Claims 1, 5, 9, 13, 14, 24, 41, and 58 on *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968), and alleges that these claims, if allowed, would improperly extend the "right to exclude" already granted in the '940 patent. The rejections are respectfully traversed.

The double patenting rejections fail to conform to the USPTO's internal rules for *Schneller*-type rejections. MPEP § 804, paragraph II. B. 2., states:

> The decision in *In re Schneller* did not establish a rule of general application and thus is limited to the particular set of facts set forth in that decision. The court in *In re Schneller* cautioned "against the tendency to freeze into rules of general application what, at best, are statements applicable to particular fact situations." *Schneller*, 397F.2d at 355, 158 USPQ at 215. Non-statutory double patenting rejections based on *Schneller* **will be rare**. The Technology Center (TC) Director must approve any nonstatutory double patenting rejections based on *Schneller*. If an examiner determines that a double patenting rejection based on *Schneller* is appropriate in his or her application, the examiner should first consult with his or her supervisory patent examiner (SPE). If the SPE agrees with the examiner then approval of the TC Director must be

> obtained before such a nonstatutory double patenting rejection can be made.

(Italics and bold in the original.) Thus, in order to properly establish the non-statutory double-patenting rejection in the present application, the Office Action must show that Claims 1, 5, 9, 13, 14, 24, 41, and 58, and claim 1 of the '940 patent present the same factual scenario as in *Schneller*.

The *Schneller* court summarized the facts of that case as follows:

> The combination ABC was old. [The appellant-inventor] made two improvements on it, (1) adding X and (2) adding Y, the result still being a unitary clip of enhanced utility. While his invention can be practiced in the forms ABCX or ABCY, the greatest advantage and best mode of practicing the invention as disclosed is obtained by using both inventions in the combination ABCXY. His first application disclosed ABCXY and other matters. He obtained a patent claiming [a clip comprising] BCX and ABCX, ... *so* claiming these combinations as to cover them *no matter what other feature is incorporated in them, thus covering effectively ABCXY*. He now, many years later, seeks more claims directed to ABCY and ABCXY.

(397 F.2d at 355-56, 158 USPQ at 216, emphasis in the original; see MPEP § 804. paragraph II. B. 2.) The court further stated that to prevail, the appellant-inventor had to establish that "the invention claimed in his patent is 'independent and distinct' from the invention of the appealed claims... ." *In re Schneller*, 397 F.2d at 354-55, 158 USPQ at 214-15 (see also MPEP § 804, paragraph II. B. 2.)

Thus, for a proper double patenting rejection under *Schneller*, the Office Action must show, among other things: (1) a feature Y in Claims 1, 5, 9, 13, 14, 24, 41, and 58, (2) a feature X in claim 1 of the '940 patent; (3) one or more features ABC that were known in the art; and (4) that the combinations ABCX and ABCY, while representing different inventions, are nevertheless not independent or distinct. The Office Action, however, has failed to do so.

The Office Action states in page 2 that the present application and the '940 patent are claiming common subject matter as follows:

> dynamically adapting the QoS treatment of data flows by reassigning/marking the packets with new treatment values based on actual network events.

This overly general and conclusory statement does not provide the Applicants with adequate notice as to exactly what in Claims 1, 5, 9, 13, 14, 24, 41, and 58 of the present application would correspond to a feature Y, what in claim 1 of the '940 patent would correspond to a feature X, what would constitute known features ABC, and why Claims 1, 5, 9, 13, 14, 24, 41, and 58 of the present application are not independent or distinct from the features of claim 1 of the '940 patent. As a result, the Applicants have had to engage in guesswork to determine the basis of the double-patenting rejection. The Applicants cannot identify any features in Claims 1, 5, 9, 13, 14, 24, 41, and 58 of the present application and in claim 1 of the '940 patent that would correspond to features X, Y, and ABC, which would constitute the factual scenario in *Schneller*. Further, Claims 1, 5, 9, 13, 14, 24, 41, and 58 of the present application recite an invention that is independent and distinct from claim 1 of the '940 patent.

Among other features, claim 1 of the '940 patent recites the features of:

> assigning packets of a first group of flows to a **first service level**;
> receiving **then-current interface congestion information for network traffic that is mapped to said first service level and that is passing through an interface of a network device in the network**;
> selecting one or more flows from the first group of flows **based on the then-current interface congestion information**;
> **reassigning packets from said one or more flows** to a second service level; and
> ...

Thus, in claim 1 of the '940 patent, marking packets with new treatment values is based on **congestion information** for network traffic that is associated with the same service level and that is passing through an interface of a network device in the network.

In contrast, in pending Claims 1, 5, 9, 13, 14, 24, 41, and 58 marking packets of one or more data flows is based on the **achieved flow bandwidths** of the one or more data flows in the network.

The feature of congestion information for network traffic that passes through an interface of a network device is separate and distinct from the feature of an achieved flow bandwidth of a data flow in a network. Therefore, claim 1 of the '940 patent is independent and distinct from Claims 1, 5, 9, 13, 14, 24, 41, and 58 of the present application.

Further, *Schneller* involved a prior patent and new claims to the *same claimed subject matter* in new combinations. Therefore, an analysis of whether the pending claims are "independent and distinct" in comparison to a prior patent, or claim the same subject matter as the prior patent, requires a rigorous comparison of the pending claims to the claims of the prior patent. Reliance on a broad re-characterization of the claims of the prior patent or the subject matter of the pending application, such as the statement of the Office Action, page 2, is legally improper under *Schneller*.

Moreover, the propriety of a *Schneller* rejection must be evaluated against the backdrop of the "common ownership exception" of the patent statute, which provides:

> Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C. §103(c)(1). Thus, Congress provided that a prior but commonly owned patent, which is not a statutory bar, may not form the basis of an obviousness-type rejection. In the present case, the '940 patent is unavailable as a reference under 35 U.S.C. §103(a) against the pending claims, because both the present application and the '940 patent are and were commonly assigned to Cisco Technology, Inc. at the time required by the statute, and the '940 patent qualifies only under §102(e). The Office Action's use of a broad re-characterization of the present claims and the '940 patent represent an attempt to interpose a rejection for obviousness under §103(a), based on a reference that is unavailable under §103(c), under a new theory of *Schneller*-type double patenting. The Office may not circumvent the clear mandate of a statute, or thwart the intent of Congress, by using a new interpretation of *Schneller*; the Office cannot do under *Schneller* what §103(c) prohibits. Indeed, the enactment of §103(c) may equally be viewed as overruling any interpretation of *Schneller* not strictly limited to its facts.

For all these reasons, no terminal disclaimer is submitted and reconsideration and withdrawal of the double patenting rejections of Claims 1, 5, 9, 13, 14, 24, 41, and 58 based on *Schneller* over claim 1 of the '940 patent are respectfully requested.

Further, if the double patenting rejections of Claims 1, 5, 9, 13, 14, 24, 41, and 58 based on *In re Schneller* are maintained in the next Office Action, Applicants respectfully request that the Technology Center Director review and approve these rejections as required by MPEP § 804, paragraph II. B. 2.

II. REJECTIONS BASED ON THE CITED ART

A. INDEPENDENT CLAIM 1

Independent Claim 1 has been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Pandya et al., U.S. Patent No. 6,671,724 ("PANDYA"). The rejection is respectfully traversed.

In general, PANDYA describes a system, which

> ... includes two main software components, an **agent** and a control module, also referred to as a control point. ... A plurality of agents may be deployed to intelligently couple clients, servers and other computing devices to the underlying network. The **deployed agents monitor,** analyze and act upon **network events relating to the networked devices with which they are associated.** The agents are centrally coordinated and/or controlled by one or more control points. (col. 4, lines 30-40; emphasis added).

Thus, the agents described in PANDYA are concerned only with the network devices on which the agents are executing. Further, PANDYA clearly and unambiguously shows that an agent is interposed between the transport and application layers of a communication protocol stack within a network device, and that the agent does not operate at the network layer of the communications protocol stack.

Specifically, PANDYA states that "agent 70 is interposed between application program 122 and a communications protocol layer for providing end-to-end data transmission, such as transport layer 124 of communication protocol stack 92." (col. 10, lines 12-15.) With respect to FIG. 6, "agent 70 is depicted as 'interposed', i.e. in a data path, between an application program and a transport protocol layer." (col. 10, lines 19-21.) Further, in FIGs. 6-8, shows that the agents "may be interposed at a variety of points between application program 122 and transport layer 124." (col. 10, lines 35-37.)

Significantly, however, nothing in PANDYA suggests that the PANDYA agents operate at the network layer of the communications protocol stack or can mark packets at that layer. On the contrary, PANDYA expressly states it is advantageous not to deal with the network layer:

> Because of the depicted position within the data path, **agent 70 is able to monitor network traffic and obtain information that is not available by hooking into transport layer 124 or the layers below the transport layer**. At the higher layers, the available data is richer and more detailed. Hooking into the stack at higher layers **allows the network to become more "application-aware" than is possible when monitoring occurs at the transport and lower layers**. (col. 10, lines 27-34.)

Thus, PANDYA at most describes a system that is "application-centric." The most the agents in PANDYA's system can do is throttle data between the application and the transport layers of the communication protocol stack of a device, which data is passed between applications executing on the device and the network. In contrast, Claim 1 describes a method for marking packets of data in a packet-switched network based on achieved flow bandwidth information within the network.

1. PANDYA does not teach the features of Claim 1 of marking a first and second groups of one or more packets of the same data flow with a first and a second behavioral treatment values, where the first and second behavioral treatment values direct devices within the network to treat the first and second groups of packets with a first and second quality of service treatment, respectively.

Among other features, Claim 1 recites:

...

marking the first group of one or more packets of said data flow with a first behavioral treatment value, wherein the **first behavioral treatment value directs devices within the network** to treat the

> first group of one or more packets with a first quality of service treatment;
>
> ...
>
> **marking the second group of one or more packets of said data flow with said second behavioral treatment value**, wherein the **second behavioral treatment value directs devices within the network** to treat the second group of one or more packets with a second quality of service treatment
>
> ....

The Applicants respectfully submit that PANDYA does not describe, teach, or suggest these two features.

First, PANDYA does not show behavioral treatment values that direct devices within the network to treat particular groups of one or more packets of the same data flow with particular quality of service treatments.

"In response to monitored network conditions and data reported by agents, the control points alter the behavior of particular agents in order to provide the desired network services." (PANDYA, col. 7, lines 29-32.) A traffic control module within an agent controls traffic flow in order to "deliver a specified network service level, which may include specifications of bandwidth, data throughput, jitter, delay, and data loss." (PANDYA, col. 11, lines 20-23.) The traffic control module implements QoS methods "by controlling the network traffic **between applications running on the agent device and the network link**." (PANDYA, col. 11, lines 17-20; emphasis added.) Since PANDYA's agents operate between the application layer and the transport layer of the communication protocol stack WITHIN a device, the above citations from PANDYA clearly show that whatever management of network traffic is performed by an agent (or by its traffic control module), this management is localized WITHIN the device on which the agent executes. Further, nothing in PANDYA shows that an agent may include

information in a packet to direct other devices in the network to treat this packet with a particular quality of service treatment.

Second, nothing in PANDYA teaches that a PANDYA agent can mark groups of one or more packets of a data flow with any information. As shown above, all the network traffic management performed by an agent in PANDYA's system is localized between the application and transport layers of the device on which the agent executes. Thus, in PANDYA there is no need to mark any packets that are transmitted by the device because all network traffic management has purportedly been accomplished BEFORE the packets are transmitted in the network.

The Office Action asserts that the feature of marking a particular group of packets of a data flow with a particular behavioral treatment value is described in col. 2, lines 33-36 of PANDYA. The Applicants respectfully disagree.

In its "BACKGROUND" section, in col. 2, lines 33-36, PANDYA states that "[k]nown QoS methods include disallowing certain types of packets, slowing transmission rates, establishing distinct classes of services for certain types packets, marking packets with a priority value, and various queueing methods." In the same "BACKGROUND" section, however, PANDYA expressly states that the known QoS methods have significant limitations. For example, in col. 3, lines 1-17, PANDYA states:

> Known policy based management solutions and QoS methods typically classify data **by monitoring data flows at the transport layer and below**. For example, a common multi-parameter classifier is the well known "five-tuple" consisting of (IP source address, IP destination address, IP protocol, TCP/UDP source port and TCP/UDP destination port). **These parameters are all obtained at the transport and network layers of the models**. The large majority of existing policy-based, QoS solutions are implemented by monitoring and classifying network activity at these protocol layers. However, the higher the protocol layer, the more definitive and specific the available data and classifiers. **Because**

> **conventional policy-based, QoS systems do not employ classifiers at higher than the transport layer, they cannot employ policy-based techniques or QoS methods using the richer and more detailed data available at the higher layers.** The conventional systems are thus limited in their ability to make the network more application-aware and vice versa. (Emphasis added.)

Thus, PANDYA expressly teaches that policy-based QoS methods that mark packets are not used higher than the transport layer. In order to overcome the limitations of these QoS methods, PANDYA describes a system in which agents throttle network-bound data between the application and the transport layers, and in which there is no need to mark packets transmitted in the network with priority values at the network layer. Further, the Applicants cannot find any passage in PANDYA which describes that any element of the PANDYA system marks any packets with priority values before transmitting the packets in the network. Thus, not only PANDYA does not teach or use a feature of marking packets with priority values, but in fact PANDYA teaches away from marking packets with priority values at the network layer.

The Office Action asserts that in col. 11, lines 41-45 and 55-65, PANDYA describes the feature of Claim 1 of a first behavioral treatment value that directs devices within the network to treat the first group of one or more packets with a first quality of service treatment. The Applicants respectfully disagree.

In col. 11, lines 36-46, PANDYA states:

> More specifically, the outgoing traffic rate may be controlled using a plurality of priority-based transmission queues, such as transmission queues 132a. When an application or process is invoked by a computing device with which agent 70 is associated, **a priority level is assigned to the application**, based on centrally defined policies and priority data supplied by the control point. Specifically, as will be discussed, the control points maintain user profiles, applications profiles and network resource profiles. These profiles include priority data which is provided to the agents. (Emphasis added.)

In col. 11, lines 55-65, PANDYA further states that:

> **The relative priorities of the queues containing data to be transmitted determine how much of the allotment may be released by each individual queue.** For example, assuming there are only two queues, Q1 and Q2, that have data queued for transmission, Q1 will be permitted to transmit 66.66% of the overall allotted interval release if its priority is twice that of Q2. Q2 would only be permitted to release 33.33% of the allotment. If their priorities were equal, each queue would be permitted to release 50% of the interval allotment for forwarding to the network link. (Emphasis added.)

Thus, PANDYA expressly teaches that the priority levels are assigned by an agent to APPLICATIONS that generate network-bound data, but does NOT teach that such priority values direct other devices within the network to treat particular packets transmitted on the network with a particular quality of service treatment. Instead, a PANDYA agent places network-bound data generated by a particular application in a particular priority queue according to the priority level assigned to the particular application. Then, the priority levels of each particular priority queue are taken into account to determine the allotment of data that is allowed to be transmitted from each queue. Significantly, however, the Applicants cannot find any passage in PANDYA that describes that the priority level information associated with PANDYA's transmission queues is included in packets that are transmitted to other devices in the network.

In contrast, Claim 1 includes the features of marking particular groups of one or more packets of the same data flow with particular behavioral treatment values, which direct devices within the network to treat the particular groups of one or more packets with particular quality of service treatments. PANDYA does not describe these features of Claim 1.

2. PANDYA does not teach the feature of Claim 1 of determining an achieved flow bandwidth for the data flow based on data traffic within the network.

Among other features, Claim 1 recites the feature of determining an achieved flow bandwidth for the data flow based on data traffic within the network. PANDYA does not describe, teach, or suggest this feature.

The Office Action asserts that PANDYA teaches the above feature in col. 12, lines 15-29, col. 10, lines 1-11, and col. 15, lines 23-28. The Applicants respectfully disagree.

In col. 15, lines 23-28, PANDYA describes that data reported by agents to control points may include priority data associated with multiple application programs executing on a single device, which priority data may include "effective application priority." Further, in col. 15, lines 46-58, PANDYA states:

> In addition to priority data, each agent may be configured to report the **amount of bandwidth UB used by its associated device** during the prior period, as discussed above. Data is also available for **each device's allocated bandwidth AB for the previous cycle. Traffic module 160 may compare configured bandwidth CB, allocated bandwidth AB or utilized bandwidth UB for each device**, or any combination of those three parameters to determine the allocations for the upcoming cycle. To summarize the three parameters, **UB is the amount the networked device used in the prior cycle**, AB is the maximum amount they were allowed to use, and CB specifies the device's "fair share" of available bandwidth for the upcoming cycle. (Emphasis added.)

Thus, the bandwidth parameters utilized in PANDYA's system are reported and configured on a per-device basis. Utilized bandwidth (UB), configured bandwidth (CB), and allowed bandwidth (AB) are reported by PANDYA's agent for the particular device on which the agent is executing. Further, PANDYA is replete with passages which state

that bandwidth is allocated by a control point to an entire device. (See col. 14, lines 54-59; col. 15, lines 1-6 and 61-63; col. 16, lines 7-13, 23-27, 33-35, and 57-60; col. 17, lines 10-11, 37-39, 46-50, and 63-64; col. 18, lines 6-14, 23-24, 26-29, and 37-42.) Significantly, the Applicants do not find anything in PANDYA that teaches or suggests that achieved flow bandwidth is determined for a data flow, as recited in Claim 1.

The passages in PANDYA at col. 12, lines 15-29 and col. 10, lines 1-11, similarly fail to show that achieved flow bandwidth is determined for a data flow. In col. 12, lines 15-29 PANDYA describes that transmit queues may be configured to timestamp transmitted packets, and that receive queues may use the timestamp in a packet to detect network congestion and/or slow responding applications or servers. However, while this passage may be describing the use of packet timestamps to detect network congestion and slow responding servers, this passage does not show that an achieved flow bandwidth is determined for a given data flow.

In col. 10, lines 1-11, PANDYA describes that the basic functions of a PANDYA's agent are monitoring the status of its associated client, server, pervasive computing device or other computing device, communicating this information to one or more control points, and providing messages to network users and administrators concerning network conditions. Thus, while this passage may be describing that a PANDYA's agent monitors the device on which it is executing, this passage does not describe that an agent determines the achieved flow bandwidth of a data flow.

For the above reasons, it is respectfully submitted that PANDYA does not describe, teach, or suggest the feature of Claim 1 of determining an achieved flow bandwidth of a data flow based on data traffic within the network.

3. PANDYA does not teach the combination of features of Claim 1 of receiving a particular group of one or more packets of a data flow from the network, marking the particular group of one or more packets of said data flow with a particular behavioral treatment value, and transmitting the particular group of one or more packets of said data flow in the network.

Among other features, Claim 1 recites:

receiving a first group of one or more packets of a data flow **from the network**;
marking the first group of one or more packets **of said data flow** with a first behavioral treatment value, ...;
transmitting the first group of one or more packets of said data flow **in the network**;
...
receiving a second group of one or more packets of said data flow **from the network**;
marking the second group of one or more packets **of said data flow** with said second behavioral treatment value, ...;
transmitting the second group of one or more packets of said data flow **in the network**.

PANDYA does not describe, teach, or suggest the combination of features of receiving a group of one or more packets from the network, marking the group of one or more packets with a behavioral treatment value, and transmitting the same group of one or more packets in the network.

Further, PANDYA does not describe that its agents are capable of receiving packets from the network and re-transmitting the same packets in the network after marking them. As discussed above, the agents in PANDYA's system operate between the application and transport layers of the communication protocol stacks of the network devices on which the agents execute. Thus, a PANDYA's agent simply processes the

data that passes on the data path between an application program running on a network device and the link to the network. (See col. 6, lines 8-10.) For this reason, PANDYA's agents are not capable of re-transmitting or forwarding network traffic received from the network link.

For the reasons set forth above, PANDYA does not describe, teach, or suggest all elements of Claim 1. Thus, Claim 1 is patentable under 35 U.S.C. § 102(e) over PANDYA. Reconsideration and withdrawal of the rejection of Claim 1 are respectfully requested.

B. INDEPENDENT CLAIMS 5, 9, 13, 14, 24, 41, AND 58

Claims 5, 9, 13, 14, 24, 41, and 58 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by PANDYA.

Claims 5, 9, 13, 14, 24, 41, and 58 include features similar to the features of Claim 1 discussed above. For this reason, Claims 5, 9, 13, 14, 24, 41, and 58 are patentable under 35 U.S.C. § 102(e) over PANDYA for at least the reasons given above with respect to Claim 1.

C. INDEPENDENT CLAIMS 25, 42, AND 59

Claims 25, 42, and 59 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by PANDYA.

Claims 25, 42, and 59 include features similar to the features of Claim 1 discussed above. For this reason, Claims 25, 42, and 59 are patentable under 35 U.S.C. § 102(e) over PANDYA for at least the reasons given above with respect to Claim 1.

Further, Claims 25, 42, and 59 include the features of:

...

communicating the initial set of QoS values **to each of one or more edge differentiated services domain nodes** that are **located at one or more edges of a differentiated services domain**, and
the one or more edge differentiated services domain nodes using one or more of the initial set of QoS values **to color the first group**;
...
communicating the updated set of QoS values **to each of one or more edge differentiated services domain nodes**, and
the one or more edge differentiated services domain nodes using one or more of the updated set of QoS values **to color the subsequent group**;
...

As discussed above, PANDYA does not describe that any element of its system is actually marking, or coloring groups of one or more packets of a given data flow.

Furthermore, PANDYA does not describe that its agents are executing on nodes at the edges of a differentiated services domain. The Applicants do not find anything in the passages cited by the Office Action, or for that matter in any other passage in PANDYA, which teaches or suggests that a PANDYA's agent may be executing on a node that is located at the edge of a differentiated services domain.

For these reasons, Claims 25, 42, and 59 are patentable under 35 U.S.C. § 102(e) over PANDYA. Reconsideration and withdrawal of the rejections of Claims 25, 42, and 59 are respectfully requested.

D. DEPENDENT CLAIMS 2-4, 6-8, 10-12, 15-23, 26-40, 43-57, AND 60-65

Claims 3, 7, 11, 15-17, 19-20, 27-28, 31-34, 36-37, 44-45, 48-51, 53-54, 61-62, and 65 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by PANDYA.

Claims 2, 6, 10, 18, 26, 35, 43, 52, and 60 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PANDYA in view of Koskelainen et al, U.S. Patent. No. 6,570,851 ("KOSKELAINEN").

Claims 22, 39, and 56 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PANDYA in view of Dillon et al., U.S. Patent No. 6,473,793 ("DILLON").

Claims 23, 40, and 57 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PANDYA in view of Bushmitch, U.S. Patent. No. 5,928,331 ("BUSHMITCH").

Claims 29, 30, 46, 47, 63, and 64 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PANDYA in view of Haddock et al., U.S. Patent. No. 6,104,700 ("HADDOCK").

Claims 21, 38, and 55 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PANDYA in view of Ordanic et al, U.S. Patent. No. 5,751,964 ("ORDANIC").

Claims 2-4, 6-8, 10-12, 15-23, 26-40, 43-57, and 60-65 are dependent upon one of independent claims 1, 5, 9, 13, 14, 24, 25, 41, 42, 58, and 59, and thus include each and every feature of their corresponding independent claims. Furthermore, in rejecting Claims 2, 6, 10, 18, 21-23, 26, 29-30, 35, 38-40, 43, 46-47, 52, 55-57, 60, and 63-64 the Office Action relies explicitly on PANDYA, and not on any of the other cited references, to show the features discussed above with respect to independent Claims 1, 5, 9, 13, 14, 24, 25, 41, 42, 58 and 59. Since as discussed above PANDYA does not disclose all features of the independent claims, any combination of PANDYA with the other references necessarily fails to teach all the features of Claims 2, 6, 10, 18, 21-23, 26, 29-30, 35, 38-40, 43, 46-47, 52, 55-57, 60, and 63-64. Therefore, each of the dependent

claims 2-4, 6-8, 10-12, 15-23, 26-40, 43-57, and 60-65 is allowable for the reasons given above for its corresponding independent claim.

In addition, each of claims 2-4, 6-8, 10-12, 15-23, 26-40, 43-57, and 60-65 introduces one or more additional features that independently render it patentable. However, due to the fundamental differences already identified, to expedite the positive resolution of this case a separate discussion of those features is not included at this time. Therefore, it is respectfully submitted that Claims 2-4, 6-8, 10-12, 15-23, 26-40, 43-57, and 60-65 are allowable at least for the reasons given above with respect to Claims 1, 5, 9, 13, 14, 24, 25, 41, 42, 58, and 59.

III. CONCLUSION

The Applicants believe that all issues raised in the Office Action have been addressed. Further, for the reasons set forth above, the Applicants respectfully submit that allowance of the pending claims is appropriate. Reconsideration of the present application is respectfully requested in light of the amendments and remarks herein.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If applicable, a law firms check for the petition for extension of time fee is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to charge any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: June 30, 2005

Stoycho D. Draganoff
Reg. No. 56,181

2055 Gateway Place, Suite 550
San Jose, California 95110-1089
Telephone No.: (408) 414-1080 ext. 208
Facsimile No.: (408) 414-1076